

## **REMARKS**

### ***Remaining Claims***

Eighteen (18) claims (Claims 1 - 18) remain pending in this application through this Amendment. As explained in more detail below, Applicants submit that all claims are in condition for allowance and respectfully request such action.

### ***Rejection of Claim 16 under 35 USC §112, first paragraph***

Claim 16 stands rejected under 35 USC §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In particular, the Examiner states that the specification does not mention a computer program, a computer readable medium or code for controlling the switching fabric. The Applicants respectfully disagree.

Page 5 of the specification, line 22 – page 6, line 4 describes a routing algorithm executed by a controller and states:

The cross-connect of the present invention comprises first, second and third fabrics and a controller that performs a routing algorithm. The controller is in communication with each of the fabrics and with the wavelength interchangers and performs a routing algorithm that ensures that any sequence of connection requests and withdrawals can be routed without disturbing any currently routed requests.

Page 10, lines 13 – 19, of the specification states:

Since F1, F2 and F3 can be based on standard wide-sense, non-blocking cross-connects, known algorithms A1, A2 and A3 exist for routing through F1, F2 and F3, respectively. Therefore, the routing algorithm of the present invention will only need to determine which wavelength interchanger 13 to route a demand through or which demand is to be routed through fabric F3 19.

Therefore, the Applicants respectfully submit that the specification does describe, either explicitly or inherently, a computer program, a computer readable medium and code for controlling the switching logic. Accordingly, the Applicants respectfully submit that the specification provides more than ample information to

enable a person skilled in the art of designing cross-connects to design code and to program a controller with the code needed to perform the routing algorithm described in the specification. For these reasons, the Applicants respectfully request that the rejection be withdrawn.

***Rejection of Claims 1 - 18 under 35 USC §103(a) – Rasala et al. in view of Bala et al.***

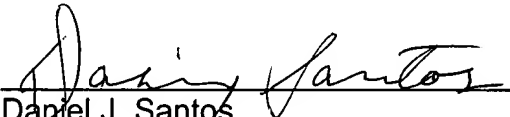
Claims 1 – 18 are rejected under 35 USC §103(a) as being obvious over Rasala et al. (US 6,535,310 B1) in view of Bala et al. (US 6,335,992 B1). As noted by the Examiner, Rasala et al. is assigned to the assignee of the present application. Because Rasala et al. is a reference under 35 U.S.C. §102(e), then according to 35 U.S.C. §103(c), the reference cannot be relied upon to reject the claims of the present application.

Although the Examiner mentions that a showing must be made in an affidavit under 35 7 CFR §1.132, the Applicants respectfully submit that this is not correct. Rather, 35 U.S.C. §103(c) only requires that the subject matter relied on as prior art and the claimed invention “were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.” Rasala et al. and the claimed invention were, at the time of the invention, subject to an obligation of assignment to Lucent Technologies. Accordingly, the Applicants respectfully request that the rejection be withdrawn.

**CONCLUSION**

For the reasons set forth above, it is respectfully submitted that all pending claims are now in condition for allowance, and Applicants request that a Notice of Allowance be issued in this case. Should there be any further questions or concerns, the Examiner is urged to telephone the undersigned to expedite prosecution.

Respectfully submitted,  
GARDNER GROFF, P.C.

  
Daniel J. Santos  
Reg. No. 40,158

GARDNER GROFF, P.C.  
Paper Mill Village, Building 23  
600 Village Trace, Suite 300  
Marietta, Georgia 30067  
Phone: 770.984.2300  
Fax: 770.984.0098